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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JINGWEL TAN and DECLAN P. KELLY

Appeal 2009-005127
Application 10/540,190
Technology Center

Before LANCE LEONARD BARRY, JEAN R. HOMERE, and DEBRA K. STEPHENS, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

The Patent Examiner rejected claims 1-6. The Appellants appeal therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

INVENTION

The Appellants' invention "add[s] . . . interactivity to the audio data and/or visual data as recorded on [a] removable recording medium" (Spec. 1) "such as, for example, a Compact-Disc ('CD') and a Digital Videodisc ('DVD')." *(Id.)*

REPRESENTATIVE CLAIM

1. A method of operating a recording device, said method comprising:

storing a recording on a removable recording medium;

adding interactivity to the recording; and

linking the recording and an interactive module based on the interactivity added to the recording.

REJECTION

Claims 1-6 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,708,845 ("Wistendahl").

CLAIM GROUPING

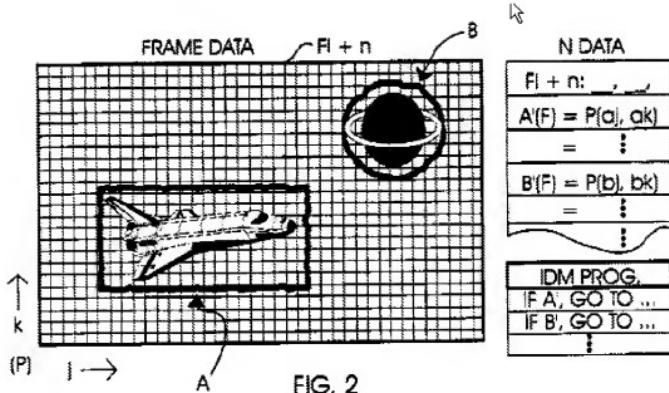
Based on the Appellants' arguments, we will decide the appeal of claims 1-6 on the basis of claim 1 alone. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ISSUE

The *issue* before us is whether the Examiner erred in finding that Wistendahl adds interactivity to a recording as required by representative claim 1.

FINDINGS OF FACT

Wistendahl describes its invention as "[a] system for allowing media content to be used in an interactive digital media (IDM) program . . ." (Abstract, ll. 1-2.) Figure 2 of the reference follows.



"FIG. 2 is a schematic drawing showing the generation of object mapping data designating 'hot spots' in a display frame" (Col. 3, ll. 56-58.)

ANALYSIS

"It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim, and that anticipation is a fact question . . ." *In re King*, 801 F.2d 1324, 1326 (Fed. Cir. 1986) (citing *Lindemann Maschinenfabrik GMBH v. Am. Hoist & Derrick Co.*, 730 F.2d 1452, 1457 (Fed. Cir. 1984)).

Here, we agree with the Examiner's following findings.

Wistendahl discloses . . .

Adding interactivity to the recording as commanded by the user of the recording device (column 9, lines 17-33: Here, an author identifies hot spots to be linked, thereby providing interactivity)

Linking the recording and an interactive module based on the interactivity added to the recording (column 3, lines 1-23; column 9, lines 17-33)[.]

(Ans. 3.)

For its part the reference corroborates the Examiner's findings by teaching that "media content is . . . rendered in the form of a stream of digital data, referred to herein as 'Frame Data', which represent the series of display frames F constituting the movie or video sequence." (Col. 6, ll. 1-4.) Figure 2, *supra*, shows one such frame.

"[F]or each frame . . . the object mapping data, referred to . . . as 'N Data', are generated to define the display location coordinates of designated 'hot spot' areas in the frames of the movie or video sequence." (*Id.* at ll. 4-8.) Figure 2, *supra*, shows hot spots A and B and the associated N Data.

"[T]he N Data define the location of the designated 'hot spots' or 'anchors' to which hyperlinks are established in the IDM program. This is represented in FIG. 2 by "IDM PROG." which references the "hot spot" N

Data values as anchors for hyperlinks to other files or executable functions ("GO TO . . .")." (*Id.* at ll. 29-34.) More specifically, "a hyperlinking tool similar to that offered in the LINKSWARETTM software is used to establish programmed hyperlinks of the object mapping data to other program functions which *provide* the IDM program with its *interactive responses*."
(Col. 9, ll. 54-58 (emphases added).)

For their part, the Appellants argue that "in the recording described in the reference Wistendahl[,] [a]ny interactivity is provided separately from any recording." (App. Br. 5.)

"During prosecution . . . the PTO gives claims their 'broadest reasonable interpretation.'" *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)).
"Moreover, limitations are not to be read into the claims from the specification." *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citing *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989)).

Here, we agree with the Examiner's following findings.

Although the appellant's preferred embodiment may include embedding the interactivity within the recording, the appellant's claimed limitations are silent as to this aspect. Therefore, the added interactivity may be stored external to the recording, as long as the recording is interactive. Therefore, Wistendahl's teaching of adding interactivity via an external program and data file constitutes adding interactivity to a recording. For these reasons, the appellant's argument is not persuasive.

(Ans. 4-5.)

Therefore, we *conclude* that the Examiner did not err in finding that Wistendahl adds interactivity to a recording as required by representative claim 1.

DECISION

We affirm the rejection of claims 1-6 under § 102(b). No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1). *See* 37 C.F.R. § 1.136(a)(1)(v).

AFFIRMED

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